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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,320	08/08/2001	Anita Hogans Simpson	BS01-066	1966
38516 7590 01/26/2007 SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519			EXAMINER NGUYEN, DUSTIN	
			ART UNIT 2154	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			01/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/923,320	SIMPSON, ANITA HOGANS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dustin Nguyen	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-48 and 51-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-48 and 51-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1, 3-48 and 51-54 are presented for examination.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 3-48 and 51-54 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter. Claims 1, 20, 30, 40, 42, 48, 51, only appear to be producing a tangible result which enables any usefulness of having sending a notification to the offline user when the total number of users exceeds a preset amount. Under all other conditions, the final result achieved is a determination, which has not been used nor made available for use in the disclosed practical application. As such, no usefulness of having made the determination can be realized.

#### ***Claim Rejections - 35 USC § 112***

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 3-48 and 51-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The claim language in the following claims is not clearly explained:

- I. Claims 1, 20, 30, 40, 42, 48, 51, claim the comparison step between the total number of users to a particular number of users that log in to the website, and sending a notification when the total number of users exceeds a preset amount, it is not clearly defined what relationship exists between "a particular number of user" and "a preset amount".

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 5-20, 23-29, 33-40, 42, 44, 46-48, 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipton [ US Patent No 6,728,754 ], in view of Rose [ US Patent Application No 2002/0032631 ].

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8. As per claim 1, Lipton discloses the invention as claimed including a method for notifying an offline user of an online user [ i.e. if a member of the group is off-line, and has enabled a telephone notification option, a telephone message indicating the online status of the user is sent to the member ] [ Figure 1; Abstract; and col 1, lines 46-54 ], the method comprising the steps of:

monitoring the total numbers of users who log in to a website [ i.e. members of group or buddy list ] [ col 1, lines 13-15 and lines 38-40 ];

as each user logs in, comparing the total number of users to notification criteria of the offline user [ i.e. determine if the member is online ] [ 26, Figure 1; and col 2, lines 24-41 ], the notification criteria specifying a particular number of users that logs in to the website [ i.e. certain members in a subset of the group or buddy list ] [ col 1, lines 46-48; and col 2, lines 64-col 3, lines 7 ].

Lipton does not specifically disclose

when the total number of users exceeds a preset amount, then sending a notification to the offline user, wherein the notification informs the offline user of an amount of activity in the website.

Rose discloses

when the total number of users exceeds a preset amount [ i.e. the predefined event occurs when a subsequent bid made by one user for a particular auction item is higher than a previous bid made by another user ] [ paragraphs 0003, 0009 and 0021 ], then sending a notification to the offline user [ i.e. the customer is notify via electronic mail ] [ paragraphs 0005, 0032 ], wherein the notification informs the offline user of an amount of activity in the website [ i.e. the alert is

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recognized at the host station to send a call-to-action to the user that has been outbid ] [ 50, Figure 2; and paragraphs 0022 and 0024 ].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lipton and Rose because Rose's teaching of auction site would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

9. As per claim 5, Lipton does not specifically disclose the website is an auction site and the notification criteria comprise entry of a bid that exceeds a high bid submitted by the offline user. Rose discloses the website is an auction site and the notification criteria comprise entry of a bid that exceeds a high bid submitted by the offline user [ paragraphs 0004 and 0009 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lipton and Rose because Rose's teaching of auction site would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

10. As per claim 6, Lipton does not specifically disclose the website is an auction site and the notification criteria comprises a number of bids submitted within a certain duration. Rose discloses the website is an auction site and the notification criteria comprises a number of bids

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submitted within a certain duration [ i.e. number of bids ] [ Figure 1; and paragraph 0015 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lipton and Rose because Rose's teaching of auction site would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

11. As per claim 8, Lipton discloses sending an offline communication to the offline user in accordance with the offline user's contact information [ i.e. telephone number associated with member ] [ 34, Figure 1; and col 2, lines 42-44 ].

12. As per claim 9, Lipton discloses communication device type and an address of the communication device [ col 4, lines 17-26 ].

13. As per claim 10, Lipton does not specifically disclose a plurality of communication device types of the offline user, addresses for each of the plurality of communication device types, and an order in which to attempt the plurality of communication device types. Rose discloses a plurality of communication device types of the offline user, addresses for each of the plurality of communication device types, and an order in which to attempt the plurality of communication device types [ i.e. telephone, pager, television ] [ paragraphs 0005, 0017 and 0032 ]. It would have been obvious to a person skill in the art at the time the invention was made

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to combine the teaching of Lipton and Rose because Rose's teaching would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

14. As per claim 11, Lipton discloses sending the offline communication to one of a wireline telephone, a wireless telephone, a caller identification device, a wireless access protocol device, a one-way pager, and an interactive page [ i.e. telephone call or mobile telephone ] [ Figure 2; col 1, lines 38-40; and col 4, lines 11-14 ].

15. As per claim 12, Lipton discloses receiving an indication from the offline user as to whether the offline user will log in to the website [ i.e. go online to chat ] [ col 4, lines 59-62 ]; and reporting the indication to the online user [ i.e. online message may comprise a textual message stating that the first user is now online ] [ col 4, lines 66-col 5, lines 5 ].

16. As per claim 7, Lipton discloses reporting the indication to another offline user [ col 2, lines 63-col 3, lines 15 ].

17. As per claim 13, Lipton discloses wherein the step of sending the offline communication comprises sending the offline communication to one of a wireline telephone and a wireless telephone [ Figure 2; and col 3, lines 55-col 4, lines 14 ],



wherein the step of receiving the indication comprises receiving input of the offline user through an interactive voice response unit [ i.e. IVR ] [ col 5, lines 6-22 ], and wherein the step of reporting the indication comprise transmitting the indication to the online user through a global computer network [ i.e. computer networks ] [ col 3, lines 44-54 ].

18. As per claim 14, Lipton discloses receiving audio input of the offline user and converting the audio input to text for transmission through the global computer network to the online user [ col 4, lines 26-29; and col 5, lines 1-5 ].

19. As per claim 15, Lipton discloses receiving audio input of the offline user, recording the audio input as a digital audio file, and transmitting the digital audio file through the global computer network to the online user [ col 4, lines 26-29; and col 5, lines 1-5 ].

20. As per claim 16, Lipton discloses sending the offline communication to one of an interactive pager and a wireless access protocol device [ i.e. radiotelephone ] [ Figure 2; and col 3, lines 55-col 4, lines 14 ], and wherein the step of reporting the indication comprises transmitting the indication to the online user through the global computer network [ i.e. computer networks ] [ col 3, lines 44-54 ]. Lipton does not specifically disclose wherein the step of receiving the indication comprises receiving input of the offline user from the interactive pager or the wireless access protocol device. Rose discloses wherein the step of receiving the indication comprises receiving input of the offline user from the interactive pager or the wireless access protocol device [ paragraphs 0024, 0025 and 0032 ]. It would have been obvious to a

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person skill in the art at the time the invention was made to combine the teaching of Lipton and Rose because Rose's teaching would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

21. As per claim 17, Lipton does not specifically disclose one of a standard message and a customized message. Rose discloses one of a standard message and a customized message [ paragraphs 0028 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lipton and Rose because Rose's teaching would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

22. As per claim 18, Lipton does not specifically disclose the notification criteria and a time and a date that the notification criteria was satisfied. Rose discloses the notification criteria and a time and a date that the notification criteria was satisfied [ 16, Figure 1; and paragraph 0028 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lipton and Rose because Rose's teaching would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices

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which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

23. As per claim 19, Lipton discloses requiring the offline user to provide a passcode before forwarding the offline communication [ i.e. password ] [ col 5, lines 6-12 ].

24. As per claim 20, it is rejected for similar reasons as stated above in claim 1.

25. As per claim 23, it is rejected for similar reasons as stated above in claim 5.

26. As per claims 24-29, they are rejected for similar reasons as stated above in claims 8-13.

27. As per claim 30, it is rejected for similar reasons as stated above in claim 1.

28. As per claim 33, it is rejected for similar reasons as stated above in claim 5.

29. As per claims 34-39, they are rejected for similar reasons as stated above in claims 8-13.

30. As per claim 40, it is rejected for similar reasons as stated above in claim 1.

31. As per claim 42, it is rejected for similar reasons as stated above in claim 1.

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32. As per claim 44, it is rejected for similar reasons as stated above in claim 8.

33. As per claims 46 and 47, they are rejected for similar reasons as stated above in claims 11 and 12.

34. As per claims 48, it is rejected for similar reasons as stated above in claims 1 and 13. Furthermore, Lipton discloses instant messaging service [ col 1, lines 12-17; and col 2, lines 13-24 ].

35. As per claims 51 and 52, they are rejected for similar reasons as stated above in claims 1, 5 and 6.

36. As per claim 53, it is rejected for similar reasons as stated above in claim 12.

37. As per claim 54, it is rejected for similar reasons as stated above in claim 5.

38. Claims 3, 4, 21, 22, 31, 32, 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lipton [ US Patent No 6,728,754 ], in view of Rose [ US Patent Application No 2002/0032631 ], and further in view of Payne et al. [ US Patent No 6,021,433 ].

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39. As per claim 3, Lipton discloses the website is a chat room [ col 4, lines 59-62; and col 5, lines 2-5 ]. Lipton and Rose do not specifically disclose a topic of discussion. Payne discloses a topic of discussion [ i.e. category ] [ col 21, lines 21-44 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lipton, Rose and Payne because Payne's teaching of category would allow the user to pinpoint and locate the specific information the user was alerted to and easily locating a story [ Payne, col 31, lines 6-14 ].

40. As per claim 4, Lipton and Rose do not specifically disclose the website is a game site and the notification criteria further comprise when a high score has been exceeded. Payne discloses the website is a game site [ col 21, lines 21-44 ] and the notification criteria further comprise when a high score has been exceeded [ col 28, lines 29-30 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lipton, Rose and Payne because Payne's teaching of game site would allow to implement the system on variety of applications to enhance its services.

41. As per claims 21 and 22, they are rejected for similar reasons as stated above in claims 3 and 4.

42. As per claims 31 and 32, they are rejected for similar reasons as stated above in claims 3 and 4.

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43. As per claim 41, it is rejected for similar reasons as stated above in claims 3-5.

44. As per claim 43, it is rejected for similar reasons as stated above in claims 3-5.

45. As per claim 45, it is rejected for similar reasons as stated above in claim 4.

46. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

#### *Conclusion*

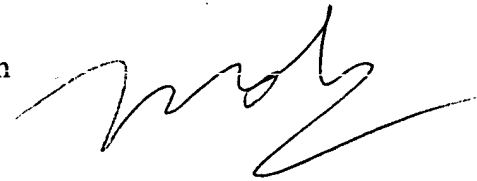
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen  
Examiner  
Art Unit 2154

A handwritten signature in black ink, appearing to read 'Dustin Nguyen', is written over the printed name and title.